

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Civil Action No.: 1:24-cv-1100

FREDDIE FOUST,)
)
 Plaintiff,)
)
 v.)
)
 DUKE UNIVERSITY,)
)
 Defendant.)
)
 _____)

**TO: THE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

NOW COMES Defendant Duke University (“Defendant”) in accordance with the requirements of 28 U.S.C. § 1446, and hereby gives notice and removes to this Court the civil action bearing the caption *Freddie Foust v. Duke University*, Civil Case No. 24CV010404-310, which is currently pending in the General Court of Justice, Superior Court Division, Durham County, North Carolina.

In support of this Notice of Removal (“Notice”), Defendant respectfully shows to the Court as follows:

1. On November 18, 2024, Plaintiff Freddie Foust (“Plaintiff”) initiated this action by filing a *Complaint* (“Complaint”) in the General Court of Justice, Superior Court Division, Durham County, North Carolina, Civil Action No. 24CV010404-310 (“State Action”).

2. On November 26, 2024, Defendant was served with a copy of the Summons and Complaint. A complete copy of all process, pleadings and orders served upon Defendant is attached as **Exhibit 1** to this Notice. 28 U.S.C. § 1446(a).

3. This Notice is being filed with this Court within thirty (30) days of service of process on Defendant. 28 U.S.C. § 1446(b).

FEDERAL QUESTION JURISDICTION

4. This Court has federal question jurisdiction over the claims against Defendant because Plaintiff alleges claims and seeks relief under the Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, as amended (Complaint ¶¶ 66-75, Count One; ¶¶ 86-97, Count Three); and 42 U.S.C. § 1981, *et seq.* (Complaint ¶¶ 76-85, Count Two; ¶¶ 98-109, Count Four). Specifically, Plaintiff alleges “discrimination on the basis of: (1) Retaliation, pursuant to, 42 U.S.C. § 1981, *et seq.* as amended; and Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, as amended; and . . . (2) Retaliatory Failure to Rehire, pursuant to 42 U.S.C. § 1981, *et seq.* as amended, and pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, as amended[.]” (Complaint p. 1).

5. The District Courts of the United States have original jurisdiction over claims “arising under the . . . laws . . . of the United States.” 28 U.S.C. § 1331. Thus, this action is one of which the United States District Court for the Middle District of North Carolina has original jurisdiction based on federal question pursuant to 28 U.S.C. § 1331, and this case is properly removable under 28 U.S.C. § 1441(a).

SUPPLEMENTAL JURISDICTION

6. The Complaint's introductory paragraph references N.C. Gen. Stat. § 95-241. Plaintiff does not raise a claim under N.C. Gen. Stat. § 95-241 in the Complaint. To the extent Plaintiff's Complaint is construed as raising a state law claim, this Court has jurisdiction. With respect to any purported state law claim alleged in the Complaint, the Court may exercise supplemental jurisdiction "over all other claims that are so related to claims in the action within [the court's] original jurisdiction that they form part of the same case or controversy[.]" 28 U.S.C. § 1367(a). Federal-law and state-law claims form part of the same case or controversy where they "derive from a common nucleus of operative fact' and are 'such that [a plaintiff] would ordinarily be expected to try them all in one judicial proceeding.'" *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 349 (1988) (quoting *United Mine Workers v. Gibbs*, 383 U.S. 715, 725 (1966) (alteration in original)). According to the allegations in the Complaint, all claims in this action purportedly arise from the alleged retaliation and failure to rehire Plaintiff under Title VII, Section 1981 and N.C. Gen. Stat. § 95-241.

THIS ACTION IS REMOVABLE UNDER FEDERAL LAW

7. Therefore, because this action satisfies the requirements of 28 U.S.C. § 1331, this action is one that may be removed to this Court pursuant to 28 U.S.C. § 1441(a).

8. Consistent with 28 U.S.C. § 1446(d), concurrent with the filing and service of this Notice, Defendant served upon Plaintiff a Notice of Filing of Notice of Removal,

attached hereto as **Exhibit 2**, and filed the same with the Clerk of Superior Court, Durham County, North Carolina.

9. Venue is proper in this District pursuant to 28 U.S.C. § 1441(a) because this District embraces the place where the removed state court action is pending.

WHEREFORE, Defendant Duke University prays that further proceedings in the Superior Court of Durham County, North Carolina, be discontinued and that this action be removed to the United States District Court for the Middle District of North Carolina, and that the Court assume full jurisdiction of this action as provided by law.

Respectfully submitted this the 23rd day of December, 2024.

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

/s/ Vanessa N. Garrido

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CERTIFICATE OF SERVICE

This is to certify that the undersigned, on this date, electronically filed the foregoing **Notice of Removal** with the Clerk of Court using the CM/ECF System, which will give electronic notice of the same to the following CM/ECF participants:

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This the 23rd day of December, 2024.

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